National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information

Washington, D.C. 20570

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July 1, 2005 W-3006

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Bantek West, Inc. (10-CA-35136, et al.; 344 NLRB No. 110) Atlanta, GA June 23, 2005. The Board, in affirming the administrative law judge's finding that the Respondent violated Section 8(a)(3) of the Act by discharging employee Mouhamadou Ndaw because of his union activity, agreed with the judge that the Respondent's stated reason for the discharge (job abandonment) was pretextual. [HTML] [PDF]

In the absence of exceptions, the Board adopted the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act by interrogating employees, creating the impression that employees' union activities were under surveillance, threatening that the selection of the Union (United Federation of Security Officers) was futile, prohibiting conversations relating to the Union on company time while permitting nonwork related conversations regarding other subjects, and prohibiting employees from discussing their terms and conditions of employment; violated Section 8(a)(3) by issuing a warning to employee Carlos Romero because of his union activities; and the judge's dismissal of other 8(a)(1) allegations.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by United Federation of Security Officers, Inc. and Mouhamadou Ndaw and Carlos Romero, Individuals; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Atlanta, Jan. 6-7, 2005. Adm. Law Judge George Carson II issued his decision March 10, 2005.

Contek Int., Inc. (22-CA-26321; 344 NLRB No. 109) Piscataway, NJ June 23, 2005. The Board affirmed the administrative law judge's finding and held that by failing and refusing to adhere to the terms of the collective-bargaining agreement with Laborers Local 592, the Respondent violated Section 8(a)(5) and (1) of the Act. The Board modified the judge's recommended Order and substituted a new notice to reflect the violation found. [HTML] [PDF]

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Laborers Local 592; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Newark on Oct. 19, 2004. Adm. Law Judge William N. Cates issued his decision Dec. 30, 2004.

Contempora Fabrics, Inc. (11-CA-19542, et al.; 344 NLRB No. 106) Lumberton, NC June 21, 2005. The Board agreed with the administrative law judge that the Respondent's vice president, Ronald Roache, in a series of speeches at mandatory employee meetings, unlawfully predicted that unionization would cause the Respondent to lose customers and risk plant closure if employees selected Food & Commercial Workers Local 204 as their collective-bargaining representative. [HTML] [PDF]

Chairman Battista and Member Schaumber reversed the judge's findings that the Respondent violated Section 8(a)(1) by soliciting grievances from employee Betty Locklear during the Union's preelection campaign; violated Section 8(a)(3) by giving Johnny Lambert, a prominent union supporter, an oral warning for allegedly making a threat to another employee; and that the warning to Lambert independently violated Section 8(a)(1) by allegedly threatening additional discipline if he engaged in additional protected activity.

Member Liebman, dissenting in part, wrote: "In reversing the judge's findings that the Respondent unlawfully solicited grievances from one employee and issued an unlawful warning to another, the majority misreads the evidence and deviates from applicable legal standards." She agreed with the majority that the warning to Lambert, by its terms, did not threaten further discipline if he engaged in nonthreatening union activity.

No exceptions were filed to the judge's dismissal of complaint allegations that the Respondent unlawfully threatened that unionization would be futile, that employees would lose their jobs and be blacklisted in retaliation for unionizing, and that employee retirement funds would be used to resist the Union; enforced unlawful no-solicitation and no-talking policies; unlawfully restricted employee movement; engaged in unlawful surveillance; unlawfully interrogated employee Johnny Lambert; and unlawfully laid off three union supporters.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Food & Commercial Workers Local 204; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Lumberton, May 19-22, 2003. Adm. Law Judge Margaret G. Brakebusch issued her decision Aug. 4, 2003.

Dalton Roofing Service, Inc. (7-CA-42317; 344 NLRB No. 108) Lansing, MI June 21, 2005. The Board reversed the administrative law judge and dismissed the complaint allegations that the Respondent violated Section 8(a)(1) and (3) of the Act by refusing to hire Sam Bono, Adam Aguilar, and Raul Aguilar because of their union affiliation, and violated Section 8(a)(1) of the Act by changing its application policy to require that applications be completed on Respondent's premises. It determined that the General Counsel failed to meet his initial burden of showing by a preponderance of the evidence that antiunion animus contributed to the Respondent's actions. [HTML] [PDF]

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Roofers Local 70; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Lansing, March 1-2, 2000. Adm. Law Judge Richard H. Beddow Jr. issued his decision May 25, 2000.

Human Development Assn. (29-CA-9367; 344 NLRB No. 113) Brooklyn, NY June 24, 2005. The Board ordered that within 14 days from the date of its order, the General Counsel make available to the Respondent for inspection and copying all records obtained from the Respondent that are relevant to the allegations in the compliance specification; and that within 21 days of the 14-day period, the Respondent may file with the Executive Secretary in Washington, DC, a second amended answer to the specification that complies with Section 102.56(b) of the Board's Rules and Regulations. [HTML] [PDF]

The General Counsel is seeking summary judgment on the basis that the Respondent's answer to the specification is deficient under Section 102.56(b) because the answer, as amended, fails to plead specifically as to information within the Respondent's knowledge. In its crossmotion for summary judgment, the Respondent contended that it lacks the records necessary to prepare a more specific answer because it submitted those records to the Region. The Respondent also contended that the General Counsel's motion should be denied because the Respondent is "essentially bereft of assets" and because the Region did not issue the compliance specification until 13 years after court enforcement of the Board's Order in the underlying unfair labor practice case (937 F.2d 657 (1991), cert denied 503 U.S. 950 (1992)).

The Board found, under the circumstances, that the Respondent is entitled to an opportunity to review the records it has provided to the Region and to file a second amended answer that complies with the Board's Rules. After the expiration of the Respondent's time to amend its answer, the Board will consider the pending motions for summary judgment in light of the Respondent's second amended answer, if such an answer has been filed. Consistent with the Board's longstanding policy of "encourag[ing] compromises and settlements," *Wallace Corp. v. NLRB*, 323 U.S. 248, 253-254 (1944), the Board strongly urged the parties to explore voluntary resolution of this dispute.

(Chairman Battista and Members Liebman and Schaumber participated.)

General Counsel filed motion for summary judgment April 20, 2005. Respondent filed cross-motion for summary judgment May 9, 2005.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

General Fabrications Corp. (Sheet Metal Workers Local 33) Sandusky, OH June 20, 2005. 8-CA-29443, et al.; JD-46-05, Judge Earl E. Shamwell Jr.

Hi-Tech Interiors, Inc. (Carpenters District Council of Kansas City & Vicinity) Manhattan, KS June 20, 2005. 17-CA-22916; JD(SF)-47-05, Judge Albert A. Metz.

Caldwell Manufacturing Co. (IUE-CWA Local 311) Rochester, NY June 22, 2005. 3-CA-24955, 25076; JD-47-05, Judge Paul Bogas.

American Church, Inc. (Graphic Communications Workers Local 638-S) Youngstown, OH June 24, 2005. 8-CA-35126; JD-48-05, Judge Karl H. Buschmann.

Contracting Specialists, Inc. (Northern Wisconsin Regional Council of Carpenters) Neenah, WI June 24, 2005. 30-CA-16779-1; JD-49-05, Judge Earl E. Shamwell Jr.

United Scaffolding, Inc. (Carpenters Local 303) Pascagoula, MS June 24, 2005. 15-CA-17232, et al.; JD(ATL)-25-05, Judge Lawrence W. Cullen.

Carpenters Metropolitan Regional Council, Southeastern Pennsylvania et al. (Allied Maintenance Technologies, Inc.) Bethlehem, PA June 24, 2005. 4-CB-9267; JD-51-05, Judge Jane Vandeventer.

NO ANSWER TO COMPLAINT

(In the following cases, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

Victor Williams, Sole Proprietor, d/b/a Williams Insulation Co. (Asbestos Workers Local 32) (22-CA-24665; 344 NLRB No. 111) Hillside and Elizabeth, NJ June 24, 2005. [HTML] [PDF]

MRA Food, Inc. d/b/a Casablanca Foods, Inc. (Food & Commercial Workers Local 400) (5-CA-32267; 344 NLRB No. 107) Dumfries, VA June 23, 2005. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Eden Medical Center, San Leandro Hospital Campus, San Leandro, CA, 32-RC-5308 June 22, 2005 (Chairman Battista and Member Schaumber; Member Liebman concurring)

DECISION AND ORDER REMANDING [to Regional Director for further appropriate action]

P.J. Rosaly Enterprises, Inc. d/b/a Islandwide Express, Caguas, PR, 24-RC-8452, June 22, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND DIRECTION OF SECOND ELECTION

Triangle Construction & Maintenance Corp., St. Croix, VI, 24-RC-8440, June 20, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND ORDER [remanding proceeding to Regional Director for further appropriate action]

Ryder Memorial Hospital, Humacao, PR, 24-RC-8370, June 22, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board granted requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Levi, Inc., d/b/a American Digital Systems, St. Louis, MO, 14-RC-12561, June 22, 2005 (Chairman Battista and Member Schaumber; Member Liebman dissenting) Fidelity Engineering Corp., Sparks, MD, 5-RC-15864, June 22, 2005 (Chairman Battista and Members Liebman and Schaumber)

Miscellaneous Board Orders

ORDER [remanding to Regional Director for further appropriate action]

The Bradley Center, Inc., Pittsburgh, PA, 6-RC-12425, June 22, 2005 (Chairman Battista and Members Liebman and Schaumber)

John T. Jones Construction Co., Fargo, ND, 17-RC-12330, June 24, 2005
